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March 21, 2003

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *In the Matter of Application of SBC Communications Inc., Michigan Bell Telephone Company, and Southwestern Bell Communications Services, Inc. for Provision of In-Region, InterLATA Services in Michigan, WC Docket No. 03-16*

Dear Ms. Dortch:

In response to a request from Commission Staff, AT&T hereby responds to SBC's claims set forth in its reply testimony¹ and in ex parte submissions² that its billing systems provide accurate and auditable wholesale bills. As shown below, SBC has entirely failed to demonstrate that it is providing CLECs with accurate and auditable wholesale bills. Indeed, the record, including the most recent evidence of errors in SBC's newly restated wholesale bills, precludes any finding that SBC has generated, or can generate, accurate wholesale bills.

SBC has acknowledged that problems with its wholesale billing have existed since its conversion of UNE-P billing from the ACIS to the CABS billing system began in August 2001. *See e.g.*, SBC Accessible Letter CLECAM 02-163 (April 26, 2002). SBC also conceded, at the time of its application, that it had not fully addressed these longstanding problems. Specifically, SBC conceded that a long-awaited "final quality assurance measure" to reconcile differences in its two wholesale billing data sources had yet to occur.³ That

¹Reply Affidavit of Justin W. Brown, Mark J. Cattrell and Michael E. Flynn (March 6, 2003) ("SBC Billing Reply Aff.").

²Letter from Geoffrey M. Klineberg to Marlene H. Dortch, Att. B, pp. 1-7 (March 14, 2003) (SBC March 14 Ex Parte"); Letter from Geoffrey M. Klineberg to Marlene H. Dortch, Att. A. p. 17 (March 17, 2003) ("SBC March 17 Ex Parte").

³Flynn Dec. ¶ 9 n.6.

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reconciliation, referred to in these proceedings as the “data bash,” finally began in late January, 2003.

The results, as reported by SBC, confirm that SBC’s wholesale bills generated between August 2001 and December 2003 were inaccurate. For example, the data bash revealed, according to SBC, that it had erroneously billed 138,000 circuits in Michigan alone, an extraordinarily high number given that SBC provisions fewer than one million UNE-P customers in Michigan. The errors were so pervasive that SBC is sending revised billing statements to 37 Michigan CLECs with revisions in charges totaling \$16.9 million. The changes resulted in credits for some CLECs and new charges for others, including a regionwide charge to AT&T of \$1.4 million.

This evidence alone requires that SBC’s application be rejected. It demonstrates, at a minimum, that SBC had not completed a critical step in validating the accuracy of its wholesale bills prior to the submission of its application. Under the complete-when-filed rule, that fact alone should preclude approval of its application.⁴

SBC’s Erroneous Claim that Its Data Bash Is a One-Time Event

SBC now asserts, however, that the data bash reconciliation is merely a “one-time event” that should be considered by the Commission as evidence, however belated, that it has fixed whatever errors that may have existed in prior bills, and that its bills going forward will be accurate.⁵ SBC’s optimism, however, cannot be reconciled with the facts. SBC has presented no evidence that its revised bills are in fact accurate. Although AT&T and other CLECs have not yet had time to thoroughly review all of the data underlying SBC’s restatements, it is already clear that these revised billing statements are not accurate or reliable.

First, the results of the data bash itself – 138,000 circuits billed in error and \$16.9 million in charges – confirm the serious problems with SBC’s wholesale billing.

Second, the data bash has continued to experience problems even after the number crunching was completed in late January. A little more than a month after the data bash, SBC discovered that thousands of telephone numbers had been excluded from the data bash; for AT&T, almost 3,100 telephone numbers had been “dropped.” These telephone numbers had been deleted from the CABS database even though they were, in fact, working UNE-P lines. SBC provided this information to CLECs on March 6 and stated that it would not impose nonrecurring charges for these “dropped” lines but would begin billing recurring charges for these lines on a going-forward basis.

⁴ *Michigan 271 Order*, ¶¶ 50-56.

⁵ SBC March 14 Ex Parte, Att. B, pp. 2-3.

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Third, in addition to the “dropped” lines, SBC had continuing problems with the reconciliation and was still processing over 5200 orders on March 13, more than six weeks after the data bash was conducted in late January. In addition, the provision of billing completion notices was suspended during the data bash, causing AT&T not to receive more than 10,000 BCNs. *See* Letter from Richard E. Young to Marlene Dortch (March 19, 2003).

Fourth, the latest data bash revelation -- by SBC’s Account Manager to AT&T during the March 18, 2003 billing telephone call -- that SBC has used the wrong NRC rates in conducting the data bash further undercuts SBC’s claim that this data bash has resolved its wholesale billing problems. Although SBC has not disclosed the extent of this problem, the use of incorrect NRC rates at a minimum will require adjustments to the debits and credits issued to CLECs and could force a complete rerun of the data bash calculations with corrected NRC rates.⁶

Finally, AT&T’s preliminary review of the data bash supporting detail demonstrates that the data bash problems extend not only to recurring and non-recurring monthly local service charges but also to rated usage charges on the wholesale bills. It now appears that AT&T has continued to be billed for usage for large numbers of customers after SBC dropped those customers from AT&T’s CABS billing in the data bash because those customers did not belong to AT&T. For example, in Illinois, AT&T has continued to receive over 37,000 usage messages between April 2002 and March 2003 for almost 1400 telephone numbers that SBC had dropped from AT&T’s CABS billing because SBC concluded they were not AT&T customers. Similarly, in Michigan, AT&T has continued to receive almost 18,000 usage messages for more than 200 telephone numbers that SBC dropped from AT&T’s CABS billing because SBC determined in the data bash they were not AT&T customers. This continued usage message billing after SBC claims that a customer no longer belongs to AT&T clearly contradicts SBC’s repeated claim that the ACIS to CABS conversion problem affected only the recurring and non-recurring charges and not usage charges. *See, e.g.,* SBC Joint Billing Reply Aff. ¶ 23 n.21.

⁶ SBC’s failure to follow established NRC rates has been an ongoing problem with its wholesale bills in the Ameritech region. As an example, SBC currently imposes separate loop and port NRCs for new UNE combination orders even though two separate Michigan PSC rulings held that SBC could impose only one NRC for a new UNE-P installation order. Opinion and Order, *In the Matter, on the Commission’s Motion, to Consider the Total Service Long Run Incremental Costs for all Access, Toll, and Local Exchange Services Provided by Ameritech Michigan*, Case No. U-11831 (8/31/00), at 10. Opinion and Order, *In the Matter, on the Commission’s Motion to Consider Ameritech Michigan’s Compliance with the Competitive Checklist in Section 271 of the Federal Telecommunications Act of 1996*, Case No. U-12320 (11/7/02), at 13. For several months, SBC has ignored these rulings and continued to impose two NRC charges for loop and port.

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Given the ongoing problems raised by the dropped lines, the inaccurate NRC rates, and the improper usage billing, SBC cannot seriously claim, as it contends in the SBC March 14 Ex Parte (at Att. B, p. 3), that the data bash process is now complete. There is in fact much work still to be done to resolve the issues raised by the data bash. Moreover, the scope of the data bash similarly makes clear that SBC cannot claim that the data bash has resolved permanently SBC's wholesale billing problems. It is undisputed that the data bash was simply a comparison of two separate SBC data bases, and thus did nothing more than correct discrepancies between the ACIS and CABS data bases. Nothing in the data bash addressed the issues that may have caused the discrepancies in the first place, such as problems in converting information from the ACIS data base to CABS, or related OSS problems that may have led to the inconsistencies between the data bases.⁷ Clearly, the magnitude of the problems (over 138,000 circuit changes on a customer base of fewer than one million UNE-P customers) would indicate that the problems were not simply the result of manual processing errors but rather systemic problems that may be associated with SBC software or OSS processes.

Thus, far from being a "one-time event," SBC's wholesale billing problems are an epic saga that extend from August 2001, when the conversion to CABS began, through April 2002, when SBC acknowledged the problems with its wholesale billing, through January 2003, when it finally attempted to do a reconciliation of its wholesale data bases, to March 2003, when it became clear that the reconciliation is still not complete. The inescapable fact is that SBC has yet to generate accurate wholesale bills for any period relevant to this Commission's review. For this reason alone, its application should be denied.

SBC's Understated Percentage of Erroneous Wholesale Charges

SBC seeks to downplay the importance of the data bash results by claiming that the \$16.9 million in billing changes is only 4.3 percent "of the total amount of CLEC wholesale billing since the conversion began [in August 2001]." SBC March 14 Ex Parte, Att. B, p. 2 & n.7. Clearly, however, the percentage is significantly higher, as SBC has manipulated both the numerator and denominator in deriving the understated 4.3 percent figure. In the numerator, the \$16.9 million fails to include the charges associated with the thousands of telephone lines that SBC "dropped" from the CABS study and only discovered weeks after the data bash was performed. SBC has announced that it will not include the charges relating to these "dropped" lines in CLEC wholesale bills, but they still represent problems with SBC's wholesale billing that increase the \$16.9 million measurably. Second, the \$16.9 million figure excludes those amounts that fall outside the time periods permitted for back billing under the relevant interconnection agreements. SBC March 14 Ex Parte, Att. B, p. 2 & n.7. In the AT&T/SBC interconnection agreement, for example, the back billing period is limited to four

⁷ For example, SBC had stated to AT&T that the data bash would account for problems in the wholesale bills that were due to its inability to provide timely and inaccurate LLNs – a problem that AT&T has demonstrated still persists. *See* pp. 6-7 *infra*.

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months in Michigan, Wisconsin, and Indiana, and one year in Illinois and Ohio. As this data bash covers an 18 month period, this exclusion significantly understates the total amount of changed circuits and associated charges.

Having understated the numerator, SBC overstates the denominator. SBC describes the denominator as “the total amount of CLEC wholesale billing since the conversion began [in August 2001].” *Id.* Such a wholesale figure would include interconnection charges, stand-alone loop charges, collocation charges and other charges (*e.g.*, the directory assistance and 411 charges) that have nothing to do with the CABS conversions and should not be included in the percentage calculation. Moreover, as noted above, SBC excludes from the calculation adjustments for periods outside the back billing period, but it does not similarly exclude the associated wholesale amounts in the denominator. SBC must include all such adjustments dating back to August 2001 to be consistent with its use of all wholesale billings for that same period.

On this issue, SBC has the burden of demonstrating that its wholesale billing is accurate, and it clearly fails to carry that burden with its wildly understated percentage of erroneous charges. SBC also relies on its performance metrics and BearingPoint results as support for its billing capabilities, but as DOJ noted in its Evaluation (p. 11 n.48), these tests do not determine if the underlying information used in the wholesale bills is accurate. Until SBC can make that showing – which the data bash clearly indicates at present it cannot – SBC has not met its burden under Section 271.

SBC’s Failure to Provide Data Bash Bill Detail

A major problem with the data bash has been SBC’s failure to provide supporting data at the time of its issuance of the data bash results. The data bash was SBC’s mechanism for addressing its wholesale billing problem, and given SBC’s responsibility for the existence of the problem, SBC should have made available to the 37 affected CLECs the specific supporting information on the changed circuits and associated charges when it provided the results of the data bash. Clearly, SBC had the supporting information available, and its delivery of such information to the CLECs in conjunction with the release of the data bash results would have facilitated CLEC review of those results. Instead, SBC has imposed on AT&T and other CLECs the obligation to hunt out the supporting data in its monthly CABS bills to review the changes made by SBC in the data bash. SBC’s use of this process has greatly increased AT&T’s and other CLEC’s costs of reviewing the data bash information, costs that could largely have been avoided if SBC had simply provided the appropriate supporting information with the data bash results.

Specifically, AT&T receives SBC’s CABS wholesale bills in electronic format. Thus, AT&T does not receive the information in the same format as set forth in SBC’s March 14th Ex Parte, Att. B, Ex. 1. And AT&T’s electronic systems are not designed to conduct the special review required by SBC’s failure to provide supporting detail in spreadsheet form. Instead, AT&T’s general practice is to “pay and claim.” Under this process, AT&T pays an

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invoice, then conducts internal validation of the supporting information, and makes a claim on a subsequent bill if it disputes any charges. Upon receipt of a CABS bill, AT&T downloads the CABS supporting information, processes the information, and then subsequently releases that information for inclusion in a data warehouse. In light of AT&T's "pay and claim" practice, it only needs to load its data warehouse with processed CABS information once a month. Thus, if the electronic CABS bill is received after the data warehouse has been loaded for that month, that information will not be available for review by AT&T personnel until the following month. For this reason, SBC's February CABS bill and its supporting information are only now becoming available for review by AT&T personnel.⁸ These processing delays could have been avoided had SBC simply provided the supporting detail that AT&T requested.

AT&T believes it will take 2-4 weeks to review the SBC data relating to the data bash. Although it appears that the CABS billing information provides the necessary information to review SBC's data bash findings, such a determination can be reached only after extensive internal review and manipulation of the data by AT&T. Given the limited opportunity to review the data bash supporting data, AT&T cannot say at this time whether the CABS information comports with AT&T's records, if the service dates provided by SBC are consistent with AT&T's records, or if the rates used by SBC in computing the credits and debits are accurate.

Double Billing and Line Loss

In addition, questions about the relationship between the data bash and SBC's inability to provide timely and accurate line loss notifications (LLNs) continue. As set forth in the Joint Reply Declaration of Sarah DeYoung and Shannie Marin ("DeYoung/Marin Reply"), SBC's demonstrated inability to provide accurate and timely LLNs has caused significant double billing problems for AT&T. *Id.* ¶¶ 4-5. AT&T had also raised with SBC its concern that the LLN problems would also cause wholesale billing inaccuracies, but SBC has never resolved the issue. Instead, SBC's billing personnel told AT&T in the fall of 2002 that any wholesale billing problems caused by the LLN problem would be addressed in the upcoming "data bash." *Id.* ¶¶ 11-12. After representing in billing discussions that the data bash would address the LLN issue, SBC after the fact claimed that the data bash in fact did not address problems associated with LLNs. *Id.* ¶¶ 11-18. AT&T still believes, however, that LLN problems are reflected in the data bash. For example, AT&T has reviewed the listings of telephone numbers provided by SBC as part of the data bash with telephone numbers for customers that experienced late and missing

⁸ Notwithstanding AT&T's general "pay and claim" policy, given SBC's failure to provide the necessary supporting information in advance of the bill, AT&T has withheld payment of amounts claimed by SBC as a result of the data bash. *See DeYoung/Marin Reply* ¶ 16 & Att. 4 (Letter from Sarah DeYoung to Thomas Harvey, SBC (February 24, 2003) stating that debits were being withheld). AT&T is examining its options and reviewing possible steps for seeking reimbursement from SBC for the costs of undertaking this review of SBC's data bash in light of SBC's obligation to provide an accurate wholesale bill.

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LLNs for November and December 2002 and determined that there is a clear overlap in the listings. AT&T expects that a similar relationship between late and missing LLNs and inaccurate wholesale bills exists for other months.⁹

SBC's data bash has revealed a number of different problems with its wholesale billing operation. The significant level of erroneous charges, the "dropped" lines, the erroneous NRC rates used in determining credits and debits, the continued usage charges after the line was dropped from AT&T's CABS bill, the failure to provide the 37 affected CLECs with appropriate billing detail at the time of the data bash results, and SBC's dramatic understatement of the level of erroneous charges are all evidence that something is seriously amiss with SBC's billing capabilities. Far from being the one-time "silver bullet" that would resolve all remaining wholesale billing issues, the data bash merely highlights the many problems that still exist and is

⁹ AT&T does not have the raw data to conduct a more comprehensive analysis that would include months prior to November and December 2002.

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in no way a one-time event. Until these problems are resolved and SBC can provide CLECs with timely wholesale bills that are accurate and auditable, SBC does not satisfy Section 271.¹⁰

Yours sincerely,

/s/ Alan C. Geolot

Alan C. Geolot

cc: John P. Stanley
Gina Spade
Susan Pié
Layla Seirafi-Najar
Ann Schneidewind

¹⁰ SBC's claim that its billing comports with industry guidelines is incorrect, SBC March 14 Ex Parte, Att. B, p. 1, as SBC has failed to follow industry guidelines in one area even after being notified of its error. SBC billed AT&T for usage for repeat dial calls when, in fact, AT&T's customers were not using that feature but were instead using the call return feature. AT&T advised SBC that its EMI (Exchange Message Interface) coding for these two features was transposed – that is, that it was using the OBF coding for repeat dial calls to bill the call return feature and vice versa. As a result, the DUF records SBC had been sending to AT&T and which AT&T uses to bill its end user customers were incorrect, thereby causing billing errors and AT&T customer dissatisfaction. On January 10, 2003, SBC admitted it had been using the wrong codes for quite some time and that its billing codes did not comply with industry standards and guidelines, and agreed to investigate a fix. On March 4, 2003, however, SBC advised AT&T that while it realized that its feature codes were inconsistent with industry guidelines, it has been using these incorrect codes in the five state Ameritech region since it first implemented the coding and has no plans to change or correct the error.